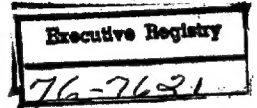




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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503



OLC 760884

MAR 31 1976

Honorable George Bush  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Attention: Mr. George L. Cary  
Legislative Counsel

Dear Mr. Bush:

This is in reply to Mr. Colby's request for advice on a proposed survivor option amendment to the Central Intelligence Agency Retirement Act which the Agency would like to submit to Congress.

The proposed amendment would provide a mandatory survivor annuity of \$2,400 per annum to the spouse of an employee, unless the spouse signs an appropriate waiver of entitlement. The purpose is to protect the interests of a surviving spouse by guaranteeing spouse participation in the decision to decline the benefit.

While a similar, mandatory survivor provision, albeit without a requirement for spouse's waiver, is now a feature of the Foreign Service Retirement Act, its repeal has been proposed by the Department of State in order to conform the Foreign Service system as nearly as possible with the Civil Service Retirement (CSR) system. The Foreign Service amendment is now pending as Sec. 105(c) of S. 1943, 94th Congress.

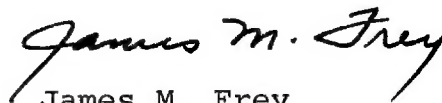
Under present law, a CIA employee, at time of retirement, has discretion to elect a reduced annuity to provide survivor benefits for a spouse. Under the CSR, the survivor election is assumed "unless the employee ... notifies the Civil Service Commission in writing at the time of retirement that he does not desire any spouse surviving ... to receive an annuity ...". The Civil Service Commission indicates that this affirmative declination provision, along with other recent survivor liberalizations, has decreased the small percentage of married employees who decline the survivor option under CSR.

Needless to say, since the problem the CIA amendment is designed to solve is not peculiar to the Agency, or even to overseas agencies generally, logically it would have to be extended to all Federal retirement systems. The Civil Service Commission states that it would be very cumbersome and time consuming to obtain written confirmation by employee and spouse of the decision to decline the survivor option, and that such a provision would create more problems and delays in the settlement of retirement claims than it would solve. We concur.

We believe an amendment to the CIA Retirement Act to require written notification of the declination of survivor option, along the lines of section 8339(j) of title 5, United States Code, would go far to solve the problem addressed by the CIA amendment and without its obvious disadvantages. We do not believe it is appropriate for the Government, as employer, to intervene in the private, domestic relations problems of its employees. A decision for or against survivor option is a personal one, as personal as making a bequest in a will or naming a beneficiary under an insurance policy, in which the Government should take no direct part. There are other, appropriate administrative procedures an agency may establish, as part of a pre-retirement counseling program, to ensure that a retiring employee is fully aware of the consequences of his action.

Accordingly, in light of the above, there would be no objection from the standpoint of the Administration's program to submission of an amendment which would incorporate the written declination feature of the Civil Service Retirement law into the Agency retirement system.

Sincerely,

A handwritten signature in cursive script that reads "James M. Frey".

James M. Frey  
Assistant Director for  
Legislative Reference

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Routing Slip

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Remarks:

Executive Secretary

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**OFFICIAL BUSINESS**

Honorable George Bush  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

STOP 64

ATTN: Mr. George L. Cary  
Legislative Counsel